

REMARKS

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-35 are pending.

Amendments to the Claims

Claims 1-35 have been examined with no claims being allowed. Applicants have amended Claim 1. No new matter has been added by this Amendment.

Claim 1 has been amended to include the limitation of each garment type differing from at least one other garment type in at least two ways, such as size, level of absorbency, refastenability of side seams, gender specificity, and/or wetness indicators. Support for this amendment is provided throughout the specification, such as at page 5, lines 9-14.

No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims remains unchanged.

References Cited by Applicants

Applicants have enclosed a copy of the IDS and corresponding Form PTO-1449 filed 14 March 2002, along with a copy of the return-receipt postcard with the USPTO receipt stamped thereon as evidence of receipt of the IDS, the 3-page Form PTO-1449, and each and every cited reference. Applicants have also enclosed a copy of both of the references mentioned by the Examiner, namely 0454105B1 and 0661031A2. Regarding reference 0454105B1, the claims on page 4 of the reference are provided in English. Applicants note that both of these references are directed to tactile wetness indicators.

Claim Rejections - 35 U.S.C. §112

The rejection of Claims 9 and 18 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention is respectfully traversed, particularly in view of the following remarks.

The Examiner has indicated that the scope of the terms “unisex pant-like garment” and “gender-specific pant-like garment” is not known. These terms are defined by Applicants at page 14, lines 12-13, and at page 9, lines 7-8, of the specification, respectively, as follows:

“Unisex” describes an item that is designed to be equally suitable for both genders, male and female.

“Gender-specific” describes an item that is designed to be more suitable for one gender, either male or female, than the other.

The Examiner states that these definitions are themselves indefinite because one wishing to avoid infringement would not know what constitutes a unisex type of garment as opposed to a gender-specific type of garment. However, a person skilled in the art is well aware of the many product variations that can be made to disposable pant-like garments to render them more suitable for one gender than the other – such as adjusting the location of the absorbent assembly to have a greater concentration of absorbent material in a female target area or in a male target area, or applying male-oriented graphics, such as cars or trains, or female-oriented graphics such as flowers or ruffles. In contrast, a unisex garment typically has an absorbent assembly that is designed to absorb insults from male and female wearers equally well, and/or may sport gender-neutral graphics such as animals or the alphabet. Additionally, marketing materials associated with disposable pant-like garments typically indicate, quite clearly, whether the garments are unisex or gender-specific.

Furthermore, Applicants’ Claims 9 and 18 require at least one unisex pant-like garment and at least one gender-specific pant-like garment in a series. If the series does, indeed, require both unisex and gender-specific garments, the gender-based differences should be immediately apparent to a person skilled in the art when examining the garments in a side-by-side comparison.

For at least the reasons given above, Applicants respectfully submit that Claims 9 and 18 are not indefinite. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-8, 10-17, and 19-35 under 35 U.S.C. §103(a) as being unpatentable over Dragoo et al. (U.S. Patent No. 6,229,061, hereinafter "Dragoo") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Dragoo discloses a package of absorbent articles having different absorbent capacities, as well as a method of treating incontinent infirmities of a wearer that includes the step of providing a package of absorbent articles having different absorbent capacities. Dragoo fails to disclose or suggest varying any aspect of the absorbent articles other than absorbent capacity. Furthermore, Dragoo fails to disclose or suggest the conveyance of any information to consumers directed to the applicability of each article in comparison to the other articles.

Applicants' invention is directed to a method of providing a series of types of training pants to consumers. As recited in Claims 1, 13, 26, 30, and 35, certain embodiments of this method require conveying information to a consumer indicating greater applicability of one of the garment types in the series over other garment types in the series. The Examiner acknowledges Dragoo's failure to disclose such a step, but opines that it would have been obvious to one of ordinary skill in the art at the time the invention was made to inform the consumer about what type of absorbent article to use depending on the child and the signals displayed by the child, such as how much the child urinates, so that the consumer will know what type of absorbent article to use. The Examiner further states that since the package includes different types of absorbent articles it is considered obvious to inform the consumer about what is inside the package so they can successfully use the articles, and that it makes no sense at all to sell different types of absorbent articles to the consumer without giving the consumer guidance as to what conditions will require what specific article.

The “conveying information” step of Applicants’ invention requires that the information compare the applicability of various garment types within the series, rather than simply describing the appropriateness of the type of garment in a single package. The series of garments in Applicants’ invention is not restricted to a single package. Instead, each of the garment types in Applicants’ invention may be sold in separate packages. The information conveyed to consumers compares the different types of garments, whether in the same package or in separate packages, with respect to signals displayed by the intended wearer. As explained at page 16, line 3 – page 17, line 18, the amount of urine generated by a child does not necessarily indicate that a child should wear a garment having a corresponding absorbent capacity. Instead, high absorbent capacity garments may be more appropriate during earlier stages of toilet training while lower absorbent capacity garments may be more appropriate during later stages of toilet training, depending on the child’s readiness as evident through certain signals displayed by the child. It is the **combination** of (1) providing a series of different types of garments, and (2) conveying information comparing these garments to one another with respect to the child’s signals, that addresses a child’s needs and abilities as the child progresses through the toilet training process.

Dragoo merely provides garments having various absorbent capacities, but fails to disclose or suggest the conveyance of any information to consumers regarding the applicability of each of the garments with respect to one another in view of the child’s signals. The Examiner further states that it is well known in the world that diapers are sold in many different sizes, and that it is well known and obvious to provide sizing information on packages of absorbent articles so the consumer can purchase the correct size for their child. As explained in the present application, during the toilet training process, a number of different factors are taken into account in determining the most appropriate garment for a child. These factors may include the child’s size, amount of urine expelled, frequency of urination, ability to discern wetness, willingness to progress through the toilet training process, as well as a number of other considerations dependent upon the child’s signals. For example, early-stage and late-stage training pants may be available in the same size, but a

caregiver may be uncertain which stage his or her child is in. Thus, information conveyed to the caregiver describing signals typically displayed by children in each stage of toilet training would help the caregiver choose the most appropriate training pant for his or her child. Contrary to the Examiner's assertions, it is not obvious to a person skilled in the art to convey information to consumers that compares different types of garments to one another in view of a child's signals.

With respect to Applicants' Claims 13-35, these embodiments of the present invention require a series of disposable pant-like garments that differ at least in terms of size and absorbent capacity. As explained above, Dragoo fails to disclose or suggest a series of garments that differs in size. Furthermore, Dragoo fails to disclose or suggest garments that differ from one another in absorbent capacity as well as in sizes that do not necessarily increase with increased absorbent capacity.

For at least the reasons given above, Applicants respectfully submit that the teachings of Dragoo fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

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Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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